

CHAPTER 11
SERIOUS INJURY — DEFINITION
H.F. 182

AN ACT expanding the criminal code definition of serious injury to include certain injuries to children.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 702.18, Code 1999, is amended to read as follows:
702.18 SERIOUS INJURY.

1. "Serious injury" means ~~disabling any of the following:~~

a. ~~Disabling~~ mental illness, ~~or bodily,~~

b. ~~Bodily~~ injury which ~~creates~~ does any of the following:

(1) Creates a substantial risk of death ~~or which causes,~~

(2) Causes serious permanent disfigurement, ~~or,~~

(3) Causes protracted loss or impairment of the function of any bodily member or organ, ~~and,~~

c. Any injury to a child that requires surgical repair and necessitates the administration of general anesthesia.

2. "Serious injury" includes but is not limited to skull fractures, rib fractures, and metaphyseal fractures of the long bones of children under the age of four years.

Approved April 1, 1999

CHAPTER 12
CONTROLLED SUBSTANCES — METHAMPHETAMINE — PENALTIES
H.F. 573

AN ACT to change the penalties applicable to the possession, manufacture, or delivery of methamphetamine and other controlled substances, relating to the possession or control of adulterated or improperly labeled articles, providing for the reopening of certain sentences, and providing for restrictions on bail.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 13B.4, subsection 1, Code 1999, is amended to read as follows:

1. The state public defender shall coordinate the provision of legal representation of all indigents under arrest or charged with a crime, on appeal in criminal cases, and on appeal in proceedings to obtain postconviction relief when ordered to do so by the district court in which the judgment or order was issued, a reopening of a sentence proceeding,* and may provide for the representation of indigents in proceedings instituted pursuant to chapter 908. The state public defender shall not engage in the private practice of law.

Sec. 2. Section 124.401, subsection 4, Code 1999, is amended to read as follows:

4. ~~It is unlawful for any A person to possess who possesses~~ any product containing ephedrine any of the following commits a class "D" felony, if the person possesses with the intent to use the product to manufacture any controlled substance:

a. Ephedrine, its salts, optical isomers, salts of optical isomers, or analogs of ephedrine, ~~or pseudoephedrine,~~

* See chapter 208, §46 herein

~~b. Pseudoephedrine, its salts, optical isomers, salts of optical isomers, or analogs of pseudoephedrine, with the intent to use the product as a precursor to any illegal substance or an intermediary to any controlled substance.~~

~~c. Ethyl ether.~~

~~d. Anhydrous ammonia.~~

~~e. Red phosphorous.~~

~~f. Lithium.~~

~~g. Iodine.~~

~~h. Thionyl chloride.~~

~~i. Chloroform.~~

~~j. Palladium.~~

~~k. Perchloric acid.~~

~~l. Tetrahydrofuran.~~

~~m. Ammonium chloride.~~

~~n. Magnesium sulfate. A person who violates this subsection commits a class "D" felony.~~

Sec. 3. Section 124.401, subsection 5, Code 1999, is amended by adding the following new unnumbered paragraphs after unnumbered paragraph 3:

NEW UNNUMBERED PARAGRAPH. If a person commits a violation of this subsection, the court shall order the person to serve a term of imprisonment of not less than forty-eight hours. Any sentence imposed may be suspended, and the court shall place the person on probation upon such terms and conditions as the court may impose. If the person is not sentenced to confinement under the custody of the director of the department of corrections, the terms and conditions of probation shall require submission to random drug testing. If the person fails a drug test, the court may transfer the person's placement to any appropriate placement permissible under the court order.

NEW UNNUMBERED PARAGRAPH. If the controlled substance is methamphetamine, its salts, isomers, or salts of its isomers, the court shall order the person to serve a term of imprisonment of not less than forty-eight hours. Any sentence imposed may be suspended, and the court shall place the person on probation upon such terms and conditions as the court may impose. The court may place the person on intensive probation. However, the terms and conditions of probation shall require submission to random drug testing. If the person fails a drug test, the court may transfer the person's placement to any appropriate placement permissible under the court order.

Sec. 4. **NEW SECTION.** 124.401D CONSPIRACY TO MANUFACTURE FOR DELIVERY OR DELIVERY OR INTENT OR CONSPIRACY TO DELIVER METHAMPHETAMINE TO A MINOR.

1. It is unlawful for a person eighteen years of age or older to act with, or enter into a common scheme or design with, or conspire with one or more persons to manufacture for delivery to a person under eighteen years of age a material, compound, mixture, preparation, or substance that contains any detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

A violation of this subsection is a felony punishable under section 902.9, subsection 0A. A second or subsequent violation of this subsection is a class "A" felony.

2. It is unlawful for a person eighteen years of age or older to deliver, or possess with the intent to deliver to a person under eighteen years of age, a material, compound, mixture, preparation, or substance that contains any detectable amount of methamphetamine, its salts, isomers, or salts of its isomers, or to act with, or enter into a common scheme or design with, or conspire with one or more persons to deliver or possess with the intent to deliver to a person under eighteen years of age a material, compound, mixture, preparation, or substance that contains any detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

A violation of this subsection is a felony punishable under section 902.9, subsection 0A. A second or subsequent violation of this subsection is a class "A" felony.

Sec. 5. NEW SECTION. 124.401E CERTAIN PENALTIES FOR MANUFACTURING OR DELIVERY OF METHAMPHETAMINE.

1. If a court sentences a person for the person's first conviction for delivery or possession with intent to deliver a controlled substance under section 124.401, subsection 1, paragraph "c", and if the controlled substance is methamphetamine, its salts, isomers, or salts of its isomers, the court may suspend the sentence, and the court may order the person to complete a drug court program if a drug court has been established in the county in which the person is sentenced or order the person to be assigned to a community-based correctional facility for a period of one year or until maximum benefits are achieved, whichever is earlier.

2. If a court sentences a person for a conviction of manufacturing of a controlled substance under section 124.401, subsection 1, paragraph "c", and if the controlled substance is methamphetamine, its salts, isomers, or salts of its isomers, the court may suspend the sentence, and the court may order the person to complete a drug court program if a drug court has been established in the county in which the person is sentenced, or order the person to be assigned to a community-based correctional facility for a period of one year or until maximum benefits are achieved, whichever is earlier.

3. If a court sentences a person for the person's second or subsequent conviction for delivery or possession with intent to deliver a controlled substance under section 124.401, subsection 1, and the controlled substance is methamphetamine, its salts, isomers, or salts of its isomers, the court, in addition to any other authorized penalties, shall sentence the person to imprisonment in accordance with section 124.401, subsection 1, and the person shall serve the minimum period of confinement as required by section 124.413.

Sec. 6. NEW SECTION. 124.401F PROHIBITIONS ON TAMPERING WITH, POSSESSING, OR TRANSPORTING ANHYDROUS AMMONIA OR ANHYDROUS AMMONIA EQUIPMENT.

1. A person shall not intentionally tamper with anhydrous ammonia equipment. Tampering occurs when a person who is not authorized by the owner of anhydrous ammonia equipment uses the equipment in violation of a provision of this section. A person shall not in any manner or for any purpose sell, fill, refill, deliver, permit to be delivered, or use an anhydrous ammonia container or receptacle, including for the storage of any gas or compound, unless the person owns the container or receptacle or is authorized to do so by the owner. A person shall not possess or transport anhydrous ammonia in a container or receptacle which is not authorized by the secretary* to hold anhydrous ammonia.

2. A person violating this section commits a serious misdemeanor. In addition to the imposition of the serious misdemeanor penalty, a person shall be subject to a civil penalty of not more than one thousand five hundred dollars, if the person does any of the following:

a. Intentionally tampers with anhydrous ammonia equipment.

b. Possesses or transports anhydrous ammonia in a container or receptacle which is not authorized to hold anhydrous ammonia according to rules adopted by the secretary.**

3. A person tampering with anhydrous ammonia equipment in violation of this section shall not have a cause of action against the owner of the equipment, any person responsible for the installation and maintenance of the equipment, or the person lawfully selling the anhydrous ammonia for damages arising out of the tampering.

Sec. 7. Section 189.16, Code 1999, is amended to read as follows:

189.16 POSSESSION AND CONTROL OF ADULTERATED AND IMPROPERLY LABELED ARTICLES.

1. ~~Any~~ Except as provided in subsection 2, a person ~~having~~ in possession or ~~under~~ having control ~~any of an~~ article which is adulterated or which is improperly labeled according to the provisions of this subtitle, ~~excluding chapters 203, 203A, 203C, 203D, 207, and 208,~~ shall

* See chapter 208, §48 herein

** Secretary of agriculture probably intended

be presumed to know ~~its true character and name, and such~~ that the article is adulterated or improperly labeled. A person's possession of an adulterated or improperly labeled article shall be prima facie evidence of having the same in possession with intent that the person intends to violate the provisions of this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208.

2. This section does not apply to the possession or control of any of the following:
 - a. Grain by a person regulated under chapter 203, 203A, 203C, or 203D.
 - b. Mining materials including coal by a person regulated under chapter 207 or 208.
 - c. A controlled substance as provided in chapter 124.

Sec. 8. Section 200.14, subsection 1A, Code 1999, is amended to read as follows:

1A. Anhydrous ammonia equipment shall be installed and maintained in a safe operating condition and in conformity with rules adopted by the secretary. ~~A person shall not intentionally tamper with anhydrous ammonia equipment. Tampering occurs when a person who is not authorized by the owner of anhydrous ammonia equipment uses the equipment in violation of a provision of this chapter, including a rule adopted by the secretary. A person shall not in any manner or for any purpose sell, fill, refill, deliver, permit to be delivered, or use an anhydrous ammonia container or receptacle, including for the storage of any gas or compound, unless the person owns the container or receptacle or is authorized to do so by the owner. A person shall not possess or transport anhydrous ammonia in a container or receptacle which is not authorized by the secretary to hold anhydrous ammonia.~~

Sec. 9. Section 200.18, subsection 2, Code 1999, is amended to read as follows:

2. A person violating this chapter or rules adopted by the secretary pursuant to this chapter shall be guilty of a simple misdemeanor. ~~In addition to the imposition of the simple misdemeanor penalty, a person violating section 200.14 shall be subject to a civil penalty of not more than one thousand five hundred dollars, if the person does any of the following:~~ However, a person who tampers with, possesses, or transports anhydrous ammonia or anhydrous ammonia equipment commits a serious misdemeanor under section 124.401F.

a. ~~Intentionally tampers with anhydrous ammonia equipment.~~

b. ~~Possesses or transports anhydrous ammonia in a container or receptacle which is not authorized to hold anhydrous ammonia according to rules adopted by the secretary.~~

~~A person tampering with anhydrous ammonia equipment in violation of section 200.14 shall not have a cause of action against the owner of the equipment, any person responsible for the installation and maintenance of the equipment, or the person lawfully selling the anhydrous ammonia for damages arising out of the tampering.~~

Sec. 10. Section 811.1, subsections 1 and 2, Code 1999, are amended to read as follows:

1. A defendant awaiting judgment of conviction and sentencing following either a plea or verdict of guilty of a class "A" felony, murder, any class "B" felony included in section 707.6A, felonious assault, felonious child endangerment, sexual abuse in the second degree, sexual abuse in the third degree, kidnapping, robbery in the first degree, arson in the first degree, ~~or burglary in the first degree, or any felony included in section 124.401, subsection 1, paragraph "a" or "b", or a second or subsequent offense under section 124.401, subsection 1, paragraph "c", or any felony punishable under section 902.9, subsection 0A.~~

2. A defendant appealing a conviction of a class "A" felony, murder, any class "B" felony included in section 707.6A, felonious assault, felonious child endangerment, sexual abuse in the second degree, sexual abuse in the third degree, kidnapping, robbery in the first degree, arson in the first degree, ~~or burglary in the first degree, any felony included in section 124.401, subsection 1, paragraph "a"; or a violation of section 124.401, subsection 1, paragraph "b", or a second or subsequent conviction under section 124.401, subsection 1, paragraph "c", or any felony punishable under section 902.9, subsection 0A.~~

Sec. 11. Section 811.2, subsection 1, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Any bailable defendant who is charged with unlawful possession, manufacture, delivery, or distribution of a controlled substance or other drug under chapter 124 and is ordered released shall be required, as a condition of that release, to submit to a substance abuse evaluation and follow any recommendations proposed in the evaluation for appropriate substance abuse treatment.

Sec. 12. Section 901.2, unnumbered paragraph 3, Code 1999, is amended to read as follows:

The court shall not order a presentence investigation when the offense is a class "A" felony. If, however, the board of parole determines that the Iowa medical and classification center reception report for a class "A" felon is inadequate, the board may request and shall be provided with additional information from the appropriate judicial district department of correctional services. The court shall order a presentence investigation when the offense is any felony punishable under section 902.9, subsection 0A, or a class "B", class "C", or class "D" felony. A presentence investigation for any felony punishable under section 902.9, subsection 0A, or a class "B", class "C", or class "D" felony shall not be waived. The court may order, with the consent of the defendant, that the presentence investigation begin prior to the acceptance of a plea of guilty, or prior to a verdict of guilty. The court may order a presentence investigation when the offense is an aggravated misdemeanor. The court may order a presentence investigation when the offense is a serious misdemeanor only upon a finding of exceptional circumstances warranting an investigation. Notwithstanding section 901.3, a presentence investigation ordered by the court for a serious misdemeanor shall include information concerning only the following:

Sec. 13. **NEW SECTION.** 901.5A REOPENING OF A SENTENCE.

1. A defendant sentenced by the court to the custody of the director of the department of corrections for an offense punishable under section 902.9, subsection 0A, may have the judgment and sentence entered under section 901.5 reopened for resentencing if the following apply:

a. The county attorney from the county which prosecuted the defendant files a motion to reopen the sentence of the defendant based upon the defendant's cooperation in the prosecution of other persons.

b. The court finds the defendant cooperated in the prosecution of other persons.

2. Upon a finding by the court that the defendant cooperated in the prosecution of other persons, the court may reduce the maximum sentence imposed under the original sentencing order.

3. For purposes of calculating good conduct time under section 903A.2, the sentencing date for a defendant whose sentence has been reopened under this section shall be the date of the original sentencing order.

4. The filing of a motion or the reopening of a sentence under this section shall not constitute grounds to stay any other court proceedings, or to toll or restart the time for filing of any post-trial motion or any appeal.

5. The defendant may request appointment of counsel, if eligible under section 815.10, prior to and during any negotiations and proceedings pursuant to this section.

Sec. 14. Section 901.10, Code 1999, is amended to read as follows:

901.10 IMPOSITION REDUCTION OF MANDATORY MINIMUM SENTENCES.

1. A court sentencing a person for the person's first conviction under section 124.406, 124.413, or 902.7 may, at its discretion, sentence the person to a term less than provided by the statute if mitigating circumstances exist and those circumstances are stated specifically in the record.

2. Notwithstanding subsection 1, if the sentence under section 124.413 involves a methamphetamine offense under section 124.401, subsection 1, paragraph "a" or "b", the court

shall not grant any reduction of sentence unless the defendant pleads guilty. If the defendant pleads guilty, the court may, at its discretion, reduce the mandatory minimum sentence by up to one-third. If the defendant additionally cooperates in the prosecution of other persons involved in the sale or use of controlled substances, and if the prosecutor requests an additional reduction in defendant's sentence because of such cooperation, the court may grant a further reduction in defendant's mandatory minimum sentence, up to one-half of the remaining mandatory minimum sentence.

3. A court sentencing a person for the person's first conviction under section 124.401D may, at its discretion, sentence the person to a term less than the maximum term provided under section 902.9, subsection 0A, if mitigating circumstances exist and those circumstances are stated specifically in the record. However, the court shall not grant any reduction of sentence unless the defendant pleads guilty. If the defendant pleads guilty, the court may, at its discretion, reduce the maximum sentence by up to one-third. If the defendant cooperates in the prosecution of other persons involved in the sale or use of controlled substances, and if the prosecutor requests an additional reduction in the defendant's sentence because of such cooperation, the court may grant a further reduction in the defendant's maximum sentence.

~~3. 4.~~ The state may appeal the discretionary decision on the grounds that the stated mitigating circumstances do not warrant a reduction of the sentence.

Sec. 15. Section 902.3, Code 1999, is amended to read as follows:

902.3 INDETERMINATE SENTENCE.

When a judgment of conviction of a felony other than a class "A" felony is entered against a person, the court, in imposing a sentence of confinement, shall commit the person into the custody of the director of the Iowa department of corrections for an indeterminate term, the maximum length of which shall not exceed the limits as fixed by ~~section 707.3 or~~ section 902.9, unless otherwise prescribed by statute, nor shall the term be less than the minimum term imposed by law, if a minimum sentence is provided. However, the court may sentence a person convicted of a class "D" felony for a violation of section 321J.2 to imprisonment for up to one year in a county jail under section 902.9, subsection 4, and the person shall not be under the custody of the director of the Iowa department of corrections.

Sec. 16. NEW SECTION. 902.8A MINIMUM SENTENCE FOR CONSPIRING TO MANUFACTURE OR DELIVERY OF METHAMPHETAMINE TO A MINOR.

A person who has been convicted for a first violation under section 124.401D shall not be eligible for parole until the person has served a minimum term of confinement of ten years.

Sec. 17. Section 902.9, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 0A. A felon sentenced for a first conviction for a violation of section 124.401D, shall be confined for no more than ninety-nine years.

Sec. 18. Section 903A.5, unnumbered paragraph 1, Code 1999, is amended to read as follows:

An inmate shall not be discharged from the custody of the director of the Iowa department of corrections until the inmate has served the full term for which the inmate was sentenced, less good conduct time earned and not forfeited, unless the inmate is pardoned or otherwise legally released. Good conduct time earned and not forfeited shall apply to reduce a mandatory minimum sentence being served pursuant to section 124.406, 124.413, 902.7, 902.8, 902.8A, or 902.11. An inmate shall be deemed to be serving the sentence from the day on which the inmate is received into the institution. However, if an inmate was confined to a county jail or other correctional or mental facility at any time prior to sentencing, or after sentencing but prior to the case having been decided on appeal, because of failure to furnish bail or because of being charged with a nonbailable offense, the inmate shall be given credit for the days already served upon the term of the sentence. The sheriff of the county in which the inmate was confined shall certify to the clerk of the district court from which the inmate

was sentenced the number of days so served. The clerk of the district court shall forward a copy of the certification of the days served to the warden.

Sec. 19. Section 906.5, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The board shall establish and implement a plan by which the board systematically reviews the status of each person who has been committed to the custody of the director of the Iowa department of corrections and considers the person's prospects for parole or work release. The board at least annually shall review the status of a person other than a class "A" felon, a class "B" felon serving a sentence of more than twenty-five years, or a felon serving an offense punishable under section 902.9, subsection 0A, or a felon serving a mandatory minimum sentence other than a class "A" felon, and provide the person with notice of the board's parole or work release decision.

Approved April 6, 1999

CHAPTER 13

TRANSPORTATION — MISCELLANEOUS PROVISIONS

S.F. 203

AN ACT relating to transportation, including regulation of school buses and special trucks, vehicle titling and registration, commercial driver's licenses, regulations on motor carriers, regulations on motor vehicle manufacturers, distributors, and dealers, size, weight, and load restrictions on vehicles, driver education, transportation of students, equipment on vehicles, rescision of a driver's license revocation, and administrative procedures of the state department of transportation, and providing for fees and penalties and an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 321.1, subsection 32, unnumbered paragraph 3, Code 1999, is amended to read as follows:

Notwithstanding the other provisions of this subsection any vehicle covered ~~thereby by this subsection~~, if it otherwise qualifies, may be registered as special mobile equipment, or operated or moved under the provisions of sections 321.57 to 321.63, if the person in whose name such vehicle is to be registered or to whom a special plate or plates are to be issued elects to do so as special mobile equipment and under such circumstances the provisions of this subsection shall not be applicable to such vehicle, nor shall such vehicle be required to comply with the provisions of sections 321.384 to 321.429 through 321.423, when such vehicle is moved during daylight hours, provided however, the provisions of section 321.383 shall remain applicable to such vehicle.

Sec. 2. Section 321.1, subsection 69, paragraph c, Code 1999, is amended to read as follows:

c. Operated by a municipally or privately owned urban transit company or a regional transit system as defined in section 324A.1 for the transportation of children as part of or in addition to their regularly scheduled service; or

Sec. 3. Section 321.1, subsection 76, Code 1999, is amended to read as follows: